BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Darrell K. Thompson Ward 040, Block 042, Parcel 00038 Residential Property Tax Year 2005	)) Shelby County))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$4,200	$13,000	$17,200	$4,300

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 27, 2007 in Memphis, Tennessee. In attendance at the hearing were Chastene and Darrell K. Thompson and Shelby County Property Assessor's representatives Jonathan Jackson and Tameaka Stanton-Riley.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence constructed in 1920 located at 1160 Merchant in Memphis.

The taxpayer contended that subject property should be valued at $10,400. In support of this position, Mr. Thompson testified that in 2004 subject land and improvements were appraised at $5,300 and $10,600 respectively. Mr. Thompson questioned why the value of the land was lowered in the 2005 reappraisal program but not the improvements.

The taxpayer asserted that three factors support his contention of value. First, Mr. Thompson testified that he purchased subject property for approximately $8,500 from a mortgage company and has done nothing to improve the property other than replace the roof at a cost of approximately $1,900.[1] Second, Mr. Thompson testified that a six room house at 872 Randle sold for $7,200 on December 10, 2005. Third, Mr. Thompson maintained subject property experiences a dimunition because of its poor physical condition.

The assessor contended that subject property should remain valued at $17,200. In support of this position, Mr. Jackson introduced a spreadsheet summarizing five comparable sales. Mr. Jackson maintained that the comparables would normally support a value indication of $44,060. Given the condition of subject property, however, the assessor

[1] Mr. Thompson was unsure exactly when he purchased subject property. According to the assessor's website, subject property last transferred by quitclaim deed for $0 on June 16, 1987. The website indicates the property had previously transferred by trustee's deed on April 10, 1985 for $22,600.

defaulted to the cost approach which indicates a value of $18,600. The assessor did not object to the $17,200 value adopted by the Shelby County Board of Equalization.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at $17,200 based upon the presumption of correctness attaching to the decision of the Shelby County Board of Equalization.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2005 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

> The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .
>
> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

Respectfully, the administrative judge finds that the assessor's prior appraisal of subject property is irrelevant to the issue of market value. The administrative judge finds that the prior appraisal may or may not have been accurate when it was made in conjunction with the last countywide reappraisal program in 2001.

The administrative judge finds that the sale of the home at 872 Randle cannot provide a basis of valuation for any of several reasons. Initially, the administrative judge would note that the sale occurred after the relevant assessment date of January 1, 2005 and is therefore

technically irrelevant. Moreover, the sale was not adjusted and minimal information was presented concerning the home itself. Further, one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

> Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

Finally, the administrative judge finds that the sales introduced by the assessor indicate a significantly higher range of value for seemingly similar homes.

The administrative judge finds merely reciting factors that could cause a dimunition in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

> The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

> The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

Respectfully, the administrative judge finds that the taxpayer did not introduce any photographs depicting the condition of subject residence or any repair estimates. Absent such evidence, the administrative judge must presume that the Shelby County Board of Equalization adequately considered the condition of subject property when it adopted a value of $17,200.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$4,200	$13,000	$17,200	$4,300

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 9th day of March, 2007.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Darrell K. Thompson
Tameaka Stanton-Riley, Appeals Manager